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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,091	07/26/2001	Staffan I. Kaempe	P-954-A	8454

7590

09/03/2004

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EXAMINER

VRABLIK, JOHN J

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,091

Applicant(s)

KAEMPE, STAFFAN I.

Examiner

John J. Vrablik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-28 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-35 is/are allowed.
- 6) ☒ Claim(s) 11-28, 30, 31 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 12-17, 21-28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 13 are indefinite for claiming a cavity which is merely an unfilled space. The claims should recite some structure defining the cavity, e.g. means forming a cavity.

Claims 15-17 are dependent claims which do not refer back to and further limit a preceding claim. See 37 CFR 1.75(c).

Claim 22 is indefinite and functional because no structure is recited to support the statement that the gear housing and cover members are surrounded by the pump's generated pressure force.

Claim 28 recites the limitation "said cavity means" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 13, 27 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by either Gelin (Fig. 1) or Nakagawa (Fig. 4). Each of the references shows

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a hydraulic gear pump comprising a gear housing (1 in Gelin and 3 in Nakagawa); a pair of intermeshing gears located operationally within the gear housing; means for rotating the gears in pumping rotation; first and second cover members (12, 12a in Gelin and 6, 7 in Nakagawa) located respectively on each side of the intermeshing gears and the gear housing, the cover members being located in generally flush coextensive abutment with the gear housing and the intermeshing gears, to define a predetermined path for fluid leading from an inlet to an outlet in the housing; wherein the outlet is positioned proximate the predetermined path of the pumped fluid, and the total outer surface area of the housing and cover members is greater than the interior surface area of the pump, whereby pumped fluid tends to create a pressure/force within the pump, which is transmitted to the fluid exiting the outlet and proceeding into the cavity surrounding the pump, the pressure/force being at least as great as the pressure/force of the fluid within the pump, whereby the cover members are urged against the corresponding face of the gear housing with minimal or no outside support as claimed.

Claims 18-20 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartman (Fig. 1). The reference shows an electro hydraulic linear actuator mechanism, comprising a bi-rotational electric motor (14); a switch (17) for controlling the direction of rotation of the electric motor (claim 31); a bi-rotational hydraulic pump (33, 34); a linear, hollow body (10) having two capped ends, and a rod (21) and attached piston (20) in the hollow body located and adapted for movement of the rod and piston in the hollow body responsive to fluid pressure applied proximate either end of the hollow body, the bi-rotational pump including intermeshing gears carried by and driven by a drive shaft

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(29) located in a housing, the bi-rotational electric motor for drivingly or rotating in a first direction and an opposing second direction of rotation and including a pair of cover members on each side of the housing, the pump being adapted to pump fluid, and means for directing the fluid to either end of the linear hollow body (claim 18); and the pump is located at one end of the linear, hollow, hydraulic body (claim 19) as recited.

Allowable Subject Matter

Claims 32-35 are allowed.

Claims 12 and 23-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 14, 21, 22, 26 and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 11, 13, 18-20, 27, 31 and 36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rohde (28) discloses a reservoir surrounding a gear pump, Carlson (Fig. 1) shows a hydraulic linear actuator with a bi-directional gear pump, and Scanderbeg et al. teach using an inert gas (58) in a fluid reservoir.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

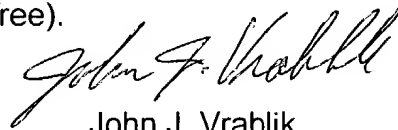
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Vrablik whose telephone number is (703) 308-2629. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John J. Vrablik
Primary Examiner
Art Unit 3748

jju